

REMARKS

This is in full and timely response to the non-final Office Action dated May 19, 2003 (Paper No. 4). The present amendment seeks to amend claim 1 in order to overcome the objections to the claims, and otherwise disputes the rejection of the claims based on the applied art. Support for this amendment can be found variously throughout the specification, including, for example, original Figs. 1 and 5. No new matter has been added. Accordingly, claims 1 to 5, 9 and 10 are presently pending in the application, each of which are believed to be in condition for allowance. Reexamination and reconsideration in light of the present amendment and the following remarks are respectfully requested.

Specification:

In the Action, the specification was objected to because of various informalities. The Applicants thank the examiner for a thorough reading of the specification, and have amended the specification in order to avoid the offending language. The Applicants additionally request acknowledgement of entry of the Preliminary Amendment filed on March 11, 1999, as changes to the specification were made therein.

As requested by the examiner in section 1(a) of the Action, the specification has been amended to correctly recite that the refractive index distribution is "inversely proportional" to the square of the distance from the optical axis. Support for this amendment can be found variously throughout the specification, including, for example, original Figs. 1 and 5.

Page 4, lines 1-23 have also been amended in the manner requested by the examiner in sections 1(b) and 1(c) of the Action. Additionally, the Applicants have also heeded the examiners suggestions in section 1(d) of the Action, and have amended the specification to correctly recite that "A represents one of the focus parameters". In other words, "Z" indicates the focal length and has two focusing parameters, "A" and "P". None of these changes are believed to constitute new matter. Withdrawal of the objection to the specification is therefore respectfully requested.

Drawings:

In the Action, the drawings were objected to under 37 C.F.R. § 1.83(a) for failing to show every feature of the invention specified in the claims. Accordingly, the Applicants have submitted herewith new Figs. 2, 3 and 4. Fig. 2 is appropriately drawn to illustrate the overall shape of the "refractive index distribution" in relation to the "cross-sectional area vertical to the optical axis", as is recited in original claim 1. This figure is to be filed in place of original Fig. 2, which the Applicants have cancelled along with original Fig. 3, as suggested by the examiner in sections 1(e) and 3 of the Office Action dated May 19, 2003. Figs. 3 and 4 have been amended to cancel the subject matter of original Fig. 3, and to correct their corresponding reference numerals. In accordance with the revised amendment format, each of these drawings are attached hereto in APPENDIX I, and are labeled as "Replacement Sheets". None of these changes are believed to constitute new matter. Accordingly, withdrawal of the objection to the drawings is courteously solicited.

Objections:

Independent claims 1 and 6, along with each of their dependent claims, were objected to by the examiner for failing to clearly identify the scope of the invention sought to be patented. Accordingly, claim 1 has been amended herewith to correctly recite the refractive index distribution as being "inversely proportional" to the square of the distance from the optical axis, for the reasons set forth above with respect to the amendments to the specification. Claims 6 to 8 have been subsequently cancelled. Withdrawal of the objection to the claims is therefore respectfully requested.

Allowable Subject Matter:

The Applicants thank the examiner for acknowledging claim 3 as containing allowable subject matter. Although claim 3 has not been amended to incorporate the limitations of its base claim, the Applicants hereby reserve the right to amend claim 3 according to its original claim structure depending on future developments of the prosecution of the present application.

Claim Rejections - 35 U.S.C. § 103(a):

In the Action, claims 1, 2 and 4 to 10 were rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 6,130,787 to Tsuchida ("Tsuchida"). This rejection is respectfully traversed.

The present invention, which has an actual U.S. filing date of March 11, 1999, claims foreign priority to Japanese Patent Application No. P10-065966, filed on March 17, 1998. A Claim to Priority under 35 U.S.C. § 119 was appropriately

filed for the present application on March 11, 1999, and was accompanied by a certified copy of the original foreign application. Consequently, the present application gains the priority date of its original foreign application, filed March 17, 1998. In accordance with 37 C.F.R. § 1.55(a), a certified English translation of this original foreign application has been requested from the Applicants, and will be submitted before the present application is granted.

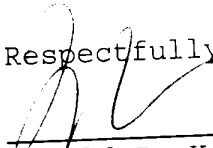
The Tsuchida reference, in contrast, has an effective prior art date of October 1, 1998, and cannot benefit from its claim to foreign priority for prior art purposes. As established by case law, no benefit of a filing date of a foreign application is given to patents under 35 U.S.C. § 102(e) for prior art purposes. *In re Hilmer*, 149 USPQ 480 (CCPA 1966). Accord. M.P.E.P. § 706.02(f)(1). Accordingly, the prior art date of the Tsuchida reference is October 1, 1998, its U.S. filing date. Therefore, because the present invention, which has a priority date of March 17, 1998, effectively antedates the Tsuchida reference, which has an actual U.S. filing date of October 1, 1998, the rejection of the claims under 35 U.S.C. § 102(e) fails, and withdrawal thereof is respectfully requested.

Conclusion:

For at least the foregoing reasons, each of the presently pending claims in this application is believed to be in immediate condition for allowance. Accordingly, the examiner is respectfully requested to pass this application to issue. If the examiner has any comments or suggestions that could place this application in even better form, the examiner is invited to telephone the undersigned attorney at the below-listed number.

Date: August 15, 2003

Respectfully submitted,



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APPENDIX I: REPLACEMENT SHEETS

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APPENDIX I
REPLACEMENT SHEETS